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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:

THE COMMISSIONER OF BUSINESS
OVERSIGHT,

Complainant,

v.

KEVIN PATRICK O'CONNELL;
TOWN & COUNTRY LENDARE, LLC,

Respondent.

CFL APPLICATION No.: 60DBO-49529
STATEMENT OF ISSUES

Complainant, the Commissioner of Business Oversight (“Commissioner”) is informed and believes, and based upon such information and belief, alleges and charges Respondent Town & Country Lendare, LLC (“Town & Country”) as follows:

I

Introduction

1. Town & Country Lendare, LLC, (“Town & Country”) is, or was, a California limited liability company formed on October 30, 2015, with a principal place of business located at 180 Newport Center Dr., Suite 175, Newport Beach, California 92660.

2. Patrick O'Connell ("O'Connell") is, or was, the president, chief executive officer, and manager of Town & Country.

3. The Commissioner is authorized to administer and enforce the provisions of the California Finance Lenders Law ("CFL") (Financial Code § 22000, et seq.)¹ and the regulations thereunder at California Code of Regulations, title 10.

4. Pursuant to section 22109(a)(3), the Commissioner may deny the application for a finance lender or broker license where, among other provisions, the applicant has violated any provision of the CFL or similar regulatory scheme of the State of California.

5. On December 1, 2015, O'Connell, on behalf of Town & Country, filed an application for a finance lender or broker license with the Commissioner pursuant to section 22100 et seq. (hereinafter "Town & Country application").

6. This Statement of Issues is submitted in support of the Commissioner's Notice of Intent to deny Town & Country's application pursuant to section 22109(a)(3) on the grounds that an officer has violated a similar regulatory scheme of the state of California.

II

Statement of Facts

A. O'Connell violated a similar regulatory scheme

7. In or about November 1997, the Real Estate Commissioner for the Bureau of Real Estate, formerly The Department of Real Estate ("BRE") filed an administrative action against O'Connell alleging that he acted as an unlicensed real estate broker in violation of the Real Estate Law. Following an administrative hearing held at the Office of Administrative Hearings, the Court issued a Proposed Decision revoking "all licenses and license rights" of O'Connell under the Real Estate Law. On December 17, 1997, the Real Estate Commissioner adopted the Court's Proposed Decision as the Decision of the Real Estate Commissioner (hereafter "the 1997 Order").

8. As stated in the 1997 Order, beginning in or about June 1994, O'Connell unlawfully and fraudulently engaged in business as a real estate broker by leasing apartments to third parties for

¹ All further references are to the Financial Code unless otherwise stated.

1 compensation without first obtaining a sales person or broker license from the BRE. The 1997
2 Order states that O’Connell falsely represented he was a licensed real estate broker entitled to a
3 broker or agent fee, and that his acts constituted “fraud and dishonest dealing.” The 1997 Order
4 concluded that based on O’Connell’s violation of the law and “lack of any credible evidence of
5 extenuation, mitigation or rehabilitation...,” there was cause to revoke “all licensees and license
6 rights” of O’Connell under the Real Estate Law.

7
8 **B. O’Connell’s efforts to reinstate his real estate broker license**

9 9. On or about March 13, 2001, O’Connell petitioned the BRE for reinstatement of his
10 real estate broker license. By Order dated February 2, 2002 (“2002 Order”), the Real Estate
11 Commissioner denied O’Connell’s petition finding that he failed to “demonstrate he had undergone
12 sufficient rehabilitation to warrant the issuance of an unrestricted real estate broker license.” The
13 2002 Order also noted that additional time was required to measure O’Connell’s rehabilitation based
14 on his “... failure to readily acknowledge his wrongdoing in his conduct which led to the revocation
15 of his license...,” and “lack of change in attitude.” O’Connell was offered a restricted broker license
16 on certain conditions — one of which was that within nine months from the issuance of the restricted
17 license, O’Connell would provide satisfactory evidence showing he had successfully completed the
18 requisite continuing education prescribed for the renewal of a real estate license.

19
20 **C. O’Connell’s efforts to obtain a CFL license from the Commissioner**

21 10. In or about May 2015, O’Connell applied for a finance lender or broker license with
22 the Commissioner on behalf of DevCap Partners, LLC. (“DevCap application”) In his DevCap
23 application, O’Connell listed himself as the president, chief executive officer, and manager of
24 DevCap, stating that he alone would be in charge of the company’s business and be responsible for
25 the conduct of the lending activity. O’Connell’s DevCap application stated that the proposed
26 operations would be originating secured, commercial, and consumer loans, for minimum amounts of
27 \$5,000.

1 11. On or about September 2, 2015, the Commissioner sent a letter to O’Connell dated
2 September 2, 2015 (“September 2015 letter”) informing O’Connell of her observations from the
3 DevCap application, namely: (i) that an administrative action was taken against O’Connell by the
4 BRE which resulted in the revocation of his broker license; (ii) that O’Connell was found to have
5 engaged in a substantial misrepresentation and his conduct was considered fraudulent and dishonest;
6 and (iii) that he applied for reinstatement of his real estate broker license and was denied
7 reinstatement because he failed to demonstrate he had undergone sufficient rehabilitation to warrant
8 the issuance of an unrestricted real estate broker license. The September 2015 letter informed
9 O’Connell that his DevCap application could be denied based on the BRE’s action against him
10 pursuant to section 22109(a)(3). Lastly, the September 2015 letter requested that O’Connell explain
11 the events surrounding the BRE’s action against him, and provide a declaration describing the
12 action(s) , if any, he has taken to show he is sufficiently rehabilitated to qualify for a CFL license.
13 O’Connell did not provide a declaration as requested, and instead, on November 4, 2015, he
14 withdrew the DevCap application.

15 12. Thereafter, in December, 2015, O’Connell filed the Town & Country application with
16 the Commissioner. In the Town & Country application, O’Connell listed himself as the president,
17 chief executive officer, and manager of Town & Country stating that he alone would be in charge of
18 the company’s business and be responsible for its lending activities. O’Connell further stated in his
19 Town & Country application that the proposed operations would comprise originating secured and
20 unsecured, commercial, and consumer loans, for minimum amounts of \$10,000.

21 13. Along with his Town & Country application, O’Connell submitted a letter dated
22 November 23, 2015, purportedly in response to the Commissioner’s September 2, 2015, in which he
23 explained that he “elected not to pursue re-licensure” with the BRE so he “could pursue other
24 opportunities.” O’Connell further stated in his November 23, 2015 letter that “the events in question
25 occurred over 18 years ago, and I defer to DRE’s summary of what occurred with the exception that
26 contrary to the allusion in March 27, 2002 Order, I was remorseful.” O’Connell did not provide the
27 Commissioner with a declaration or other evidence demonstrating that he is sufficiently reformed to
28 obtain a CFL license from the Commissioner.

III**Authority to Deny Town & Country's Application License**

14. Section 22109 provides, in pertinent part:

22109. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a finance lender or broker license for any of the following reasons:

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

15. As evidenced by the 1997 Order, O'Connell unlawfully engaged in business as a real estate broker without first obtaining a license from the BRE. Further, O'Connell fraudulently acted as a real estate broker by misrepresenting he was licensed as a real estate broker and was entitled to an agent or broker fee. O'Connell is the president, chief executive officer and sole member responsible for the Town & Country's lending activities in this state. Therefore, Town & Country's officer has violated a similar regulatory scheme.

IV**CONCLUSION**

By reason of the foregoing, the Commissioner finds that O'Connell, as an officer or person responsible for the lending activities of Town & Country, has violated a similar regulatory scheme of the State of California.

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1 WHEREFORE, the Commissioner prays that pursuant to section 22109(a)(3), the application
2 for a finance lender license filed by Town & Country Lendare, LLC, Inc. on December 1, 2015, be
3 denied.

4 Dated: August 11, 2016

JAN LYNN OWEN
Commissioner of Business Oversight

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7 By _____
8 UCHE L. ENENWALI
9 Senior Counsel
10 Enforcement Division
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